

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:13cv386-FDW**

TERRANCE L. JAMES-BEY,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
RENOICE E. STANCIL,)	
)	
Respondent.)	
)	

THIS MATTER is before the Court upon Petitioner Terrence James-Bey's pro se Motion to Lift Stay and Amend Action. (Doc. No. 12). Petitioner is represented by counsel.

Petitioner is a prisoner of the State of North Carolina serving a life sentence without the possibility of parole for first-degree murder. On June 24, 2013, Petitioner filed a Petition for Writ of Habeas Corpus, 28 U.S.C. § 2254, in this Court, raising an Eighth Amendment claim.¹ (Doc. No. 1.) Action on the Petition has been stayed since July 13, 2013, while Petitioner exhausts his Eighth Amendment claim in the state courts. (Doc. No. 5.)

This is Petitioner's second pro se motion to lift the stay of this action. (Doc. Nos. 8, 12.) As the Court explained when dismissing Petitioner's first motion to lift the stay, the Constitution does not confer a right to proceed simultaneously by counsel and pro se (Doc. No. 9). See McKaskle v. Wiggins, 465 U.S. 168, 183 (1984) (finding no constitutional right to hybrid representation); see also, United States v. Penniegraft, 641 F.3d 566, 569 n.1 (4th Cir. 2011)

¹ Further background in this matter may be found in this Court's May 10, 2016 Order (Doc. No. 9) dismissing Petitioner's pro se Motion to Dismiss (Doc. No. 6), pro se Motion to Lift Stay (Doc. No. 7), and pro se Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. No. 8).

(holding that where defendant is represented by counsel on appeal and his appeal is not submitted pursuant to Anders v. California, 386 U.S. 738 (1967), defendant may not submit pro se briefing). Absent credible evidence that Petitioner is no longer represented by counsel, the Court is not obligated to consider his pro se filings. See Wiggins, 465 U.S. at 183.

IT IS, THEREFORE, ORDERED that Petitioner's pro se Motion to Lift Stay (Doc. No. 12) is **DISMISSED**.

Signed: September 11, 2017



Frank D. Whitney
Chief United States District Judge

